

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY TREVINO

Defendant.

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8:08MJ33

ORDER

(CONSOLIDATED)

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SILVIA VENZOR-ESTRADA,

Defendant.

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8:08MJ34

ORDER

IN RE: MATERIAL WITNESSES:

**DANTE RAMIREZ-RIVERA
MANUEL FERNANDO HERNANDEZ-AYALA
JACINTO RODRIGUEZ-LOPEZ
JUAN CARLOS CALZADA CORTEZ
JOSE TRINIDAD BERUMEN-LOPEZ**

This matter is before the court on the applications of the United States and the defendants for the arrest and detention of material witnesses, Dante Ramirez-Rivera, Manuel Fernando Hernandez-Ayala, Jacinto Rodriguez-Lopez, Juan Carlos Calzada Cortez, and Jose Trinidad Berumen-Lopez. The court having found the applications set forth the materiality of the witnesses' testimony in the above-captioned matters and it may become impracticable to secure the presence of the witnesses by subpoena, arrest warrants were issued for the arrest of the witnesses pursuant to 18 U.S.C. § 3144.

Following the witnesses' arrests, the witnesses were brought before the undersigned magistrate judge for a hearing on March 13, 2008. Dante Ramirez-Rivera appeared with his court-appointed counsel, William J. Bianco; Manuel Fernando Hernandez-Ayala appeared with his court-appointed counsel, John D. McDermott; Jacinto Rodriguez-Lopez appeared with his court-appointed counsel, Hugh Reefer; Juan Carlos Calzada Cortez appeared with his court-appointed counsel, Casey J. Quinn; and Jose Trinidad Berumen-Lopez appeared with his court-appointed counsel, M. Scott Vander Schaaf. Assistant U.S. Attorney Michael P. Norris represented the United States. During the hearing, Laura Garcia-Hein, a certified interpreter in the Spanish language, was present.

The court took judicial notice of the application and attached affidavit and an Immigration Control Enforcement (ICE) detainer for each of the witnesses which was placed with the U.S. Marshal. None of the witnesses presented any evidence or requested a hearing on the request for detention as a material witness.

I find that the testimony of each of the witnesses would be material in these criminal proceedings against Johnny Trevino and Silvia Venzor-Estrada. I further find it may become impracticable to secure the presence of the witnesses by subpoena if the witnesses abscond to Mexico if they were released from custody on conditions. Since the ICE has placed a detainer with the U.S. Marshal for deportation proceedings regarding each witness and each witness has no roots in this community or state, I find there is no condition or combination of conditions that would reasonably assure the presence of each witness for the upcoming criminal proceedings in these matters if he was released on conditions.

IT IS ORDERED:

1. The witnesses, Dante Ramirez-Rivera, Manuel Fernando Hernandez-Ayala, Jacinto Rodriguez-Lopes, Juan Carlos Calzada Cortez, and Jose Trinidad Berumen-Lopez, are committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Each witness shall

be afforded a reasonable opportunity for private consultation with his counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver each witness to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

2. Any motion or request for a deposition of the witness pursuant to Fed. R. Crim. P. 15(a) and 18 U.S.C. § 1344 shall be served on all parties to this case.

DATED this 13th day of March, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge